

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-811

February 11, 2003

FOX ISLAND ELECTRIC COOPERTIVE, INC.
Proposed Rate Change (\$232,953 or 14.5%
Increase in Revenues)

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we approve Fox Island Electric Cooperative's (FIEC's) proposed rate increase and grant its request for an accounting order to defer the difference between the amount included in rates for cable repair and the actual costs incurred on a calendar year basis as discussed further in this Order.

II. BACKGROUND

On December 31, 2002, FIEC filed a proposed increase in rates pursuant to the provisions of 35-A M.R.S.A. § 307. This included a request for an accounting order to allow deferral of cable repair costs incurred in excess of those included in its rates in this case. FIEC states that during calendar year 2002, it experienced seven failures of its four submarine cables. The rates established in FIEC's last rate case were based on two repairs as per the test year revenue requirement. Because of these additional expenses, FIEC operated at a net loss during 2002. FIEC's debt covenants require it to maintain an average Times Interest Earnings Ratio (TIER) of 1.25 in two out of three years. Without the proposed rate increase, FIEC will not be able to meet this requirement.

On January 7, 2003, the Office of Public Advocate filed a petition to intervene in this matter. On January 23, 2003, the Commission held a case and technical conference to address interventions as well as address specific questions on the filing. The Hearing Examiner granted intervention to the OPA as well as to Mr. Carl Pinson, a FIEC customer who wished to speak at the conference. Mr. Pinson stated that he supported the rate increase but also requested that FIEC seek grants or other funding from federal sources. A follow-up technical conference was held on January 27, 2003 to obtain additional details about the rate filing from FIEC. On February 4, 2003, FIEC made an additional filing providing further details of its accounting order request and stating that while it had made certain changes to its revenue requirements as discussed in the technical conferences, it did not change its rate schedules but instead increased the amounts held to meet its TIER requirements. This treatment is in accordance with the informal agreement reached between FIEC, the OPA and the Advisory Staff at the January 27th technical conference.

During the course of this proceeding, FIEC indicated that it is planning on replacing the current underwater cables, which are not buried, with buried cables that should reduce the amount of cable repair necessary. However, the replacement cannot be completed until at least 2004 and, as a result, there remains the likelihood of additional cable repairs. FIEC included in its proposed rates the cost of seven repairs consistent with its 2002 experience. It cannot state with any degree of certainty however, the likely number of repairs necessary during the rate year due to varied causes of the breaks. To ensure that its collections for cable repairs are consistent with its needs, FIEC requested an accounting order to allow it to defer the difference between the amount included in rates and its actual cable repair expense until its next rate case. FIEC states that it intends on filing a rate case to reflect the cost of the new cables.

During the technical conferences the parties addressed the level of rate case expenditures included in revenue requirements. The current proposal does not normalize rate case expenditures as is consistent with Commission policy but includes all test year adjusted expenses in its revenue requirements. FIEC states that this is because it believes that it will be back in for additional rates within one to two years due to the new cable. The parties noted that given that possibility, it was appropriate to include the expenses for a full test year in the current rates, however, that this would be looked at in future proceedings and that FIEC would be expected to normalize its rate case expenditures. FIEC, the OPA and the Advisory Staff agreed to this treatment.

III. DECISION

FIEC operations are dependent on the cables running from the mainland to the islands it serves, Vinalhaven and North Haven. Therefore, it has no option but to repair breaks as they occur. It has made the decision to replace those cables due to the increase in repairs over the last several years. However, as with any construction project, there will be a delay between the time when this decision was made and when the cables can be placed into service. During this time, FIEC will have to continue to incur the cost of cable repairs. The proposal before us to defer the difference between actual cable repair expenses and the level of cable repair expense included in rates, ensures the ratepayers will not have to fund repairs that do not occur while also ensuring that FIEC will have adequate revenues and thus be in compliance with its debt covenants.

While it is unfortunate that FIEC ratepayers must bear another rate increase so soon after its last one, we do not see another alternative which would allow FIEC to provide adequate service to its customers. Therefore, we approve the rates as proposed by FIEC. We also approve its request for an accounting order to allow it to defer the difference between the \$114,963 included in revenue requirements for cable repairs and its actual costs on a calendar year basis. In its next rate filing, FIEC will include a proposal to adjust its rates for any over or under recoveries. Carrying costs on any deferred amounts will be accrued using FIEC's overall cost of debt.

Accordingly, we

ORDER

1. FIEC's proposed rate increase is approved effective for service beginning February 15, 2003;
2. FIEC's February 2003 Revision, Page 12, Tariff No. 12; Page 13, Tariff No. 13; Page 14, Tariff No. 14; Page 15, Tariff No. 15; Page 16, Tariff No. 16; Page 16, Tariff No. 17; Page 18, Tariff No. 18; and Page 19, Tariff No. 19 filed on December 31, 2002 are effective February 15, 2003; and
3. FIEC shall defer the difference between the \$114,963 included in its revenue requirements for cable repair and the actual amount incurred on a calendar year basis as a regulatory asset or liability. FIEC will also accrue carrying costs on any deferred amounts as directed in this order.

Dated at Augusta, Maine, this 11th day of February, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl

Administrative Director

COMMISSIONERS VOTING FOR:

Nugent
Diamond

COMMISSIONERS ABSENT:

Welch

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.